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Office of the Fiscal Assistant Secretary
U.S. Department of the Treasury, Room 2112
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: Comment of proposed regulation of financial institution arrangements with payment service providers

Dear Mr. Hammond:

National Financial Corporation (NFC) is a leader in providing technology to financial service centers serving millions of low-income consumers located throughout the country. NFC is currently developing a de novo bank specifically designed to meet the banking needs of low-income consumers. Endpoints for service, including payment service providers described in the ANPRM, will comprise a portion of the distribution network for the bank. Although NFC voices no objection to the payment service provider arrangements described in the ANPRM, it is possible to use payment service providers and preserve FDIC insurance coverage and other consumer protections afforded financial institution account holders.

Treasury seeks comment regarding the appropriateness of prohibiting arrangements between financial institutions and payment service providers as they relate to federal funds transmitted electronically to non-ETAs. The product attributes for ETAs also includes such a prohibition. It would be a mistake for Treasury to prohibit the use of payment service providers in conjunction with non-ETAs and Treasury should reconsider its ETA attribute prohibiting such arrangements because such prohibitions will reduce consumer access to the country's financial system.

More than 50,000 payment service providers exist throughout the country. In many cases these businesses already represent the access point of choice for consumers conducting financial transactions. To prohibit these businesses from participating in the distribution of electronic federal payments would significantly reduce the network of service providers available to the recipients of federal payments. It would further require those who currently use payment service providers to shift their business activity to a new location and business which may not be conveniently located. Without sufficient and convenient access, fewer recipients will take advantage of ETAs and Treasury's ability to meet its stated goal of reducing the cost to the federal government of issuing checks will be diminished.

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In addition, payment service providers along with financial institutions contribute to the convenience and safety of the federal benefit recipients. Benefit distribution through electronic means reduces fraud by eliminating the ability to steal and forge checks. Electronic distribution also eliminates the need for a recipient to wait for the postal delivery of their check to deter fraud. Payment service providers represent a staffed environment for enhanced communication and added security when compared to an ATM delivery alternative being considered by some financial institutions. Again, by increasing the network of access points to include payment service providers, EFT participation will increase and costs related to check distribution and fraud will decrease.

Many consumers find payment service providers to be more conveniently located and open longer hours than their financial institution counterparts. In addition, payment service providers generally offer ancillary services including electronic bill payment not offered by financial institutions. When these services are available through financial institutions they are generally more expensive. If ETA access is limited to financial institutions, ETA owners will likely have to make a separate trip to a payment service provider for the balance of required services. This will result in additional time and expense for the ETA owner along with increased exposure to funds loss during transport.

Responses to Specific Questions

Should Treasury consider regulations limiting arrangements between financial institutions and payment service providers in which electronic federal payments are deposited into a recipient's non ETA account at a financial institution but made available through a payment service provider?

No. Although NFC voices no objection to the payment service provider arrangements described in the ANPRM, it is possible to use payment service providers and preserve FDIC insurance coverage and other consumer protections afforded financial institution account holders. A program whereby a payment service provider facilitates access to the consumer's ETA through electronic means in a staffed, secure environment is an acceptable template for such arrangements. This is true for both ETA and non-ETA accounts. Electronically deposited federal funds would remain in the consumer's ETA account at a participating financial institution until such time as the account owner withdraws funds. This would maintain FDIC insurance and all other consumer protections afforded the owner of any other FDIC insured financial institution account.

Consumers currently conduct business with payment service providers independent of any financial institution relationship because banks are often not located in proximity to their home or employment. In areas where both financial institutions and payment service providers co-exist, consumers regularly choose to avoid the financial institutions because of the high cost of purchasing money orders and the lack of ancillary services deemed important such as bill payment access. Limiting or prohibiting arrangements with payment service providers may serve to limit access and increase overall costs to ETA users.

Do such arrangements deny the recipient either: (a) an account at a financial institution, (b) access to such account, (c) access at a reasonable cost, or (d) the same consumer protections with respect to the account as other account holders at the same institution?

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(a) Financial institution account status and the protections provided through such status are not denied in an environment where an ETA owner accesses their account directly through a payment service provider. Such an arrangement would operate not unlike a staffed ATM.

(b) Financial institution account access would not be denied, and in fact, would be enhanced, if participation by a financial institution included access at both the payment service provider and all other locations of the financial institution.

(c) No. Such arrangements enhance access to ancillary services deemed important by the consumer market. Consumers are able to access ancillary services including electronic bill payment through payment service providers. These services lower overall costs to the consumer by eliminating additional trips.

(d) If an ETA owner accesses their account through a payment service provider, FDIC insurance and other consumer protections would be maintained.

Should payment service providers be subject to regulation, or only a particular subset, and if only a subset, what is the basis for such distinction?

States currently regulate payment service providers through the department of Financial Institutions. In addition, national associations such as NaCCA, require member adherence to standards in the interest of maintaining industry integrity. Further regulation related specifically to the ETA program will only serve to reduce interest in supporting the program, thereby, reducing consumer access and choice.

Treasury seeks comment on the merit of adding the following features:

(a) The payment of interest on balances

Payment of interest on balances should be allowed at the discretion of the financial institution as a basis for market differentiation.

(b) Allowing deposits of other electronic funds

Electronic deposits through channels such as the Automated Clearing House (ACH) should be allowed. Reasonable cost is, in part, defined by the ability to use a single account for many purposes and access to additional deposits through an ETA is more affordable than maintaining several accounts. Limiting access to approved channels such as ACH through participating financial institutions will prevent money laundering risks and related costs.

(c) Allowing ACH debit capability

ACH debit is a feature available to other account holders at a given financial institution and should be enjoyed by ETA holders. As with (b) above, the ACH feature eliminates the need to maintain several accounts at increased cost to the consumer.

Conclusion

Treasury should allow electronic benefit distribution arrangements between financial institutions and payment service providers because these staffed environments enhance safety and confidence. As such, they should never be removed from the options made available to consumers. A likely alternative would be to shift ETA transactions to the ATM environment. Such alternatives will serve to diminish federal benefit recipient interest in participating in EFT distribution.

The development of arrangements which preserve FDIC insurance coverage and other consumer protections cannot be explored if payment service provider distribution is prohibited.

Sincerely,

Thomas E. Spitz
President
De Novo Bank Project

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